

04-14

The Secretary of State presents his compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and has the honor to announce recently implemented regulations issued by the United States Food and Drug Administration (FDA). The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, also known as the “Bioterrorism Act,” was signed into law on June 12, 2002. Title III of the law includes new procedures for the importation of food into United States.

Effective December 12, 2003, the FDA now requires notification in advance (“prior notice”) of a food shipment’s arrival to the United States. These procedures, established in order to protect the food supply of the United States, will affect the foreign diplomatic community insofar as missions and mission personnel attempt to import food shipments using form DS-1504, “Request for Customs Clearance of Merchandise.”

Under the new regulations, prior notice of imported foods must be received and confirmed electronically by FDA no more than five days before its arrival. For any international mail shipments, prior notice must be made before the shipment is mailed, and confirmation of the prior notice must accompany the package. When an individual sends or otherwise transports foods subject to the new requirement, advance notice of at least two hours (if by road), four hours (by air or rail) or eight hours (by water) is required. When the food is carried by or otherwise accompanies an individual, the individual bringing in the food must also present confirmation of receipt for FDA review. Any food that is imported with inadequate prior notice is subject to refusal and holding at the port of entry.

Prior notice must be submitted electronically. The FDA has launched the Prior Notice System Interface (PNSI) so that notifications can be processed via the Internet. Any foreign missions personnel involved in the importation of food are encouraged to register for the PNSI at: <http://www.cfsan.fda.gov/~pn/pnoview.html>. Prior notice can also be submitted to FDA via the Automated Commercial System (ACS) of the U.S.

Customs and Border Protection, which is available for use by customs brokers.

Foods that are excluded from the prior notice requirement are: (1) food carried by or otherwise accompanying an individual arriving in the United States for that individual's personal use (i.e., for consumption by themselves, family, or friends, and not for sale or other distribution); (2) food that is imported, then exported without leaving the port of arrival until export; (3) meat food products, poultry products and egg products that are subject to the exclusive jurisdiction of the U.S. Department of Agriculture (USDA) under the Federal Meat Inspection Act, the Poultry Products Inspection Act, or the Egg Products Inspection Act (which are subject to USDA's Food Safety and Inspection Service import requirements); and (4) food that was made by an individual in his/her personal residence and sent by that individual as a personal gift (i.e., for non-business reasons) to an individual in the United States.

These new regulations do NOT require prior notice for food brought into the United States in a diplomatic pouch or bag. Pursuant to the

Vienna Convention on Diplomatic Relations, any baggage or cargo clearly marked as a “diplomatic bag” or “diplomatic pouch” cannot be opened or detained and is immune from search. Therefore, prior notice is not required for food brought into the United States in a diplomatic pouch or bag.

The Department looks to the diplomatic missions to bring the contents of this note to the attention of all their personnel, both in Washington and at the respective consular mission throughout the United States.



Department of State,

Washington,

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